

AMENDED IN ASSEMBLY JANUARY 4, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1436

Introduced by Assembly Member Portantino

February 27, 2009

~~An act to amend Section 32121 of the Health and Safety Code, relating to hospital districts. An act to add Section 66020.5 to the Education Code, relating to postsecondary educational institutions.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1436, as amended, Portantino. ~~Hospital districts. Postsecondary educational institutions: meetings: live audio broadcasts.~~

Existing law, intended to strengthen existing accountability requirements, requires the California Postsecondary Education Commission, each November 15, to submit a higher education report to the Legislature and the Governor which provides information to the citizens of the state on the significant indicators of performance of the public colleges and universities.

This bill would require the Board of Governors of the California Community Colleges, the Trustees of the California State University, the California Postsecondary Education Commission, and the Student Aid Commission, including any auxiliary organization, to make available on the Internet a live audio broadcast of each of its meetings that is open to the public. This bill would also request that the Regents of the University of California comply with these provisions.

~~The existing Local Health Care District Law provides for the formation of local health care districts and specifies district powers, including the power to establish, maintain, and operate, or provide assistance in the operation of, one or more health facilities, or health~~

services, including, but not limited to, outpatient programs, services, and facilities retirement programs, services, and facilities or other health care programs, services, and facilities and activities at any location within or without the district for the benefit of the district and the people served by the district.

~~This bill would provide that this power includes ownership and would revise the definition of health care facilities for purposes of this power to expressly include public hospitals, as defined.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 66020.5 is added to the Education Code,
2 to read:

3 66020.5. (a) The Board of Governors of the California
4 Community Colleges, the Trustees of the California State
5 University, the California Postsecondary Education Commission,
6 and the Student Aid Commission, including any auxiliary
7 organization established pursuant to Section 69522, shall make
8 available on the Internet a live audio broadcast of each of its
9 meetings that is open to the public. Notice of these meetings and
10 links to the live audio broadcasts shall be easily accessible via
11 each entity's Internet Web site. The Regents of the University of
12 California are requested to comply with these provisions.

13 (b) It is not a violation of this section if technical failures prevent
14 an entity from making a live audio broadcast available on the
15 Internet so long as the entity exercised reasonable diligence in
16 making a live audio broadcast available.

17 SECTION 1. ~~Section 32121 of the Health and Safety Code, as~~
18 ~~amended by Section 1 of Chapter 20 of the Statutes of 2007, is~~
19 ~~amended to read:~~

20 32121. ~~Each local district shall have and may exercise the~~
21 ~~following powers:~~

22 ~~(a) To have and use a corporate seal and alter it at its pleasure.~~

23 ~~(b) To sue and be sued in all courts and places and in all actions~~
24 ~~and proceedings whatever.~~

25 ~~(c) To purchase, receive, have, take, hold, lease, use, and enjoy~~
26 ~~property of every kind and description within and without the~~
27 ~~limits of the district, and to control, dispose of, convey, and~~

1 enumber the same and create a leasehold interest in the same for
2 the benefit of the district.

3 (d) ~~To exercise the right of eminent domain for the purpose of~~
4 ~~acquiring real or personal property of every kind necessary to the~~
5 ~~exercise of any of the powers of the district.~~

6 (e) ~~To establish one or more trusts for the benefit of the district,~~
7 ~~to administer any trust declared or created for the benefit of the~~
8 ~~district, to designate one or more trustees for trusts created by the~~
9 ~~district, to receive by gift, devise, or bequest, and hold in trust or~~
10 ~~otherwise, property, including corporate securities of all kinds,~~
11 ~~situated in this state or elsewhere, and where not otherwise~~
12 ~~provided, dispose of the same for the benefit of the district.~~

13 (f) ~~To employ legal counsel to advise the board of directors in~~
14 ~~all matters pertaining to the business of the district, to perform the~~
15 ~~functions in respect to the legal affairs of the district as the board~~
16 ~~may direct, and to call upon the district attorney of the county in~~
17 ~~which the greater part of the land in the district is situated for legal~~
18 ~~advice and assistance in all matters concerning the district, except~~
19 ~~that if that county has a county counsel, the directors may call~~
20 ~~upon the county counsel for legal advice and assistance.~~

21 (g) ~~To employ any officers and employees, including architects~~
22 ~~and consultants, the board of directors deems necessary to carry~~
23 ~~on properly the business of the district.~~

24 (h) ~~To prescribe the duties and powers of the health care facility~~
25 ~~administrator, secretary, and other officers and employees of any~~
26 ~~health care facilities of the district, to establish offices as may be~~
27 ~~appropriate and to appoint board members or employees to those~~
28 ~~offices, and to determine the number of, and appoint, all officers~~
29 ~~and employees and to fix their compensation. The officers and~~
30 ~~employees shall hold their offices or positions at the pleasure of~~
31 ~~the boards of directors.~~

32 (i) ~~To do any and all things that an individual might do that are~~
33 ~~necessary for, and to the advantage of, a health care facility and a~~
34 ~~nurses' training school, or a child care facility for the benefit of~~
35 ~~employees of the health care facility or residents of the district.~~

36 (j) ~~To establish, maintain, own and operate, or provide assistance~~
37 ~~in the operation of, one or more health facilities or health services,~~
38 ~~including, but not limited to, outpatient programs, services, and~~
39 ~~facilities; retirement programs, services, and facilities; chemical~~
40 ~~dependency programs, services, and facilities; or other health care~~

1 programs, services, and facilities and activities at any location
2 within or without the district for the benefit of the district and the
3 people served by the district.

4 “Health care facilities,” as used in this subdivision, means those
5 facilities defined in subdivision (b) of Section 32000.1 and
6 specifically includes freestanding chemical dependency recovery
7 units and public hospitals, as defined in paragraph (25) of
8 subdivision (a) of Section 14105.98 of the Welfare and Institutions
9 Code. “Health facilities,” as used in this subdivision, may also
10 include those facilities defined in subdivision (d) of Section 15432
11 of the Government Code.

12 (k) ~~To do any and all other acts and things necessary to carry~~
13 ~~out this division.~~

14 (l) ~~To acquire, maintain, and operate ambulances or ambulance~~
15 ~~services within and without the district.~~

16 (m) ~~To establish, maintain, and operate, or provide assistance~~
17 ~~in the operation of, free clinics, diagnostic and testing centers,~~
18 ~~health education programs, wellness and prevention programs,~~
19 ~~rehabilitation, aftercare, and any other health care services provider,~~
20 ~~groups, and organizations that are necessary for the maintenance~~
21 ~~of good physical and mental health in the communities served by~~
22 ~~the district.~~

23 (n) ~~To establish and operate in cooperation with its medical~~
24 ~~staff a coinsurance plan between the hospital district and the~~
25 ~~members of its attending medical staff.~~

26 (o) ~~To establish, maintain, and carry on its activities through~~
27 ~~one or more corporations, joint ventures, or partnerships for the~~
28 ~~benefit of the health care district.~~

29 (p) (1) ~~To transfer, at fair market value, any part of its assets~~
30 ~~to one or more corporations to operate and maintain the assets. A~~
31 ~~transfer pursuant to this paragraph shall be deemed to be at fair~~
32 ~~market value if an independent consultant, with expertise in~~
33 ~~methods of appraisal and valuation and in accordance with~~
34 ~~applicable governmental and industry standards for appraisal and~~
35 ~~valuation, determines that fair and reasonable consideration is to~~
36 ~~be received by the district for the transferred district assets. Before~~
37 ~~the district transfers, pursuant to this paragraph, 50 percent or more~~
38 ~~of the district’s assets to one or more corporations, in sum or by~~
39 ~~increment, the elected board shall, by resolution, submit to the~~
40 ~~voters of the district a measure proposing the transfer. The measure~~

1 shall be placed on the ballot of a special election held upon the
2 request of the district or the ballot of the next regularly scheduled
3 election occurring at least 88 days after the resolution of the board.
4 If a majority of the voters voting on the measure vote in its favor,
5 the transfer shall be approved. The campaign disclosure
6 requirements applicable to local measures provided under Chapter
7 4 (commencing with Section 84100) of Title 9 of the Government
8 Code shall apply to this election.

9 (2) To transfer, for the benefit of the communities served by
10 the district, in the absence of adequate consideration, any part of
11 the assets of the district, including, without limitation, real property,
12 equipment, and other fixed assets, current assets, and cash, relating
13 to the operation of the district's health care facilities to one or more
14 nonprofit corporations to operate and maintain the assets.

15 (A) A transfer of 50 percent or more of the district's assets, in
16 sum or by increment, pursuant to this paragraph shall be deemed
17 to be for the benefit of the communities served by the district only
18 if all of the following occur:

19 (i) The transfer agreement and all arrangements necessary
20 thereto are fully discussed in advance of the district board decision
21 to transfer the assets of the district in at least five properly noticed
22 open and public meetings in compliance with Section 32106 and
23 the Ralph M. Brown Act (Chapter 9 (commencing with Section
24 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

25 (ii) The transfer agreement provides that the hospital district
26 shall approve all initial board members of the nonprofit corporation
27 and any subsequent board members as may be specified in the
28 transfer agreement.

29 (iii) The transfer agreement provides that all assets transferred
30 to the nonprofit corporation, and all assets accumulated by the
31 corporation during the term of the transfer agreement arising out
32 of, or from, the operation of the transferred assets, are to be
33 transferred back to the district upon termination of the transfer
34 agreement, including any extension of the transfer agreement.

35 (iv) The transfer agreement commits the nonprofit corporation
36 to operate and maintain the district's health care facilities and its
37 assets for the benefit of the communities served by the district.

38 (v) The transfer agreement requires that any funds received
39 from the district at the outset of the agreement or any time
40 thereafter during the term of the agreement be used only to reduce

1 district indebtedness, to acquire needed equipment for the district
2 health care facilities, to operate, maintain, and make needed capital
3 improvements to the district's health care facilities, to provide
4 supplemental health care services or facilities for the communities
5 served by the district, or to conduct other activities that would
6 further a valid public purpose if undertaken directly by the district.

7 (B) A transfer of 10 percent or more but less than 50 percent of
8 the district's assets, in sum or by increment, pursuant to this
9 paragraph shall be deemed to be for the benefit of the communities
10 served by the district only if both of the following occur:

11 (i) The transfer agreement and all arrangements necessary
12 thereto are fully discussed in advance of the district board decision
13 to transfer the assets of the district in at least two properly noticed
14 open and public meetings in compliance with Section 32106 and
15 the Ralph M. Brown Act (Chapter 9 (commencing with Section
16 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

17 (ii) The transfer agreement meets all of the requirements of
18 clauses (iii) to (v), inclusive, of subparagraph (A).

19 (C) Before the district transfers, pursuant to this paragraph, 50
20 percent or more of the district's assets to one or more nonprofit
21 corporations, in sum or by increment, the elected board shall, by
22 resolution, submit to the voters of the district a measure proposing
23 the transfer. The measure shall be placed on the ballot of a special
24 election held upon the request of the district or the ballot of the
25 next regularly scheduled election occurring at least 88 days after
26 the resolution of the board. If a majority of the voters voting on
27 the measure vote in its favor, the transfer shall be approved. The
28 campaign disclosure requirements applicable to local measures
29 provided under Chapter 4 (commencing with Section 84100) of
30 Title 9 of the Government Code shall apply to this election.

31 (D) Notwithstanding the other provisions of this paragraph, a
32 hospital district shall not transfer any portion of its assets to a
33 private nonprofit organization that is owned or controlled by a
34 religious creed, church, or sectarian denomination in the absence
35 of adequate consideration.

36 (3) If the district board has previously transferred less than 50
37 percent of the district's assets pursuant to this subdivision, before
38 any additional assets are transferred, the board shall hold a public
39 hearing and shall make a public determination that the additional
40 assets to be transferred will not, in combination with any assets

1 previously transferred, equal 50 percent or more of the total assets
2 of the district.

3 ~~(4) The amendments to this subdivision made during the~~
4 ~~1991–92 Regular Session, and the amendments made to this~~
5 ~~subdivision and to Section 32126 made during the 1993–94 Regular~~
6 ~~Session, shall only apply to transfers made on or after the effective~~
7 ~~dates of the acts amending this subdivision. The amendments to~~
8 ~~this subdivision made during those sessions shall not apply to any~~
9 ~~of the following:~~

10 ~~(A) A district that has discussed and adopted a board resolution~~
11 ~~prior to September 1, 1992, that authorizes the development of a~~
12 ~~business plan for an integrated delivery system.~~

13 ~~(B) A lease agreement, transfer agreement, or both between a~~
14 ~~district and a nonprofit corporation that were in full force and effect~~
15 ~~as of September 1, 1992, for as long as that lease agreement,~~
16 ~~transfer agreement, or both remain in full force and effect.~~

17 ~~(5) Notwithstanding paragraph (4), if substantial amendments~~
18 ~~are proposed to be made to a transfer agreement described in~~
19 ~~subparagraph (A) or (B) of paragraph (4), the amendments shall~~
20 ~~be fully discussed in advance of the district board’s decision to~~
21 ~~adopt the amendments in at least two properly noticed open and~~
22 ~~public meetings in compliance with Section 32106 and the Ralph~~
23 ~~M. Brown Act (Chapter 9 (commencing with Section 54950) of~~
24 ~~Part 1 of Division 2 of Title 5 of the Government Code).~~

25 ~~(6) Notwithstanding paragraphs (4) and (5), a transfer agreement~~
26 ~~described in subparagraph (A) or (B) of paragraph (4) that provided~~
27 ~~for the transfer of less than 50 percent of a district’s assets shall~~
28 ~~be subject to the requirements of this subdivision when subsequent~~
29 ~~amendments to that transfer agreement would result in the transfer,~~
30 ~~in sum or by increment, of 50 percent or more of a district’s assets~~
31 ~~to the nonprofit corporation.~~

32 ~~(7) For purposes of this subdivision, a “transfer” means the~~
33 ~~transfer of ownership of the assets of a district. A lease of the real~~
34 ~~property or the tangible personal property of a district shall not be~~
35 ~~subject to this subdivision except as specified in Section 32121.4~~
36 ~~and as required under Section 32126.~~

37 ~~(8) Districts that request a special election pursuant to paragraph~~
38 ~~(1) or (2) shall reimburse counties for the costs of that special~~
39 ~~election as prescribed pursuant to Section 10520 of the Elections~~
40 ~~Code.~~

1 ~~(9) (A) Nothing in this section, including subdivision (j), shall~~
2 ~~be construed to permit a local district to obtain or be issued a single~~
3 ~~consolidated license to operate a separate physical plant as a skilled~~
4 ~~nursing facility or an intermediate care facility that is not located~~
5 ~~within the boundaries of the district.~~

6 ~~(B) Notwithstanding subparagraph (A), Eastern Plumas Health~~
7 ~~Care District may obtain and be issued a single consolidated license~~
8 ~~to operate a separate physical plant as a skilled nursing facility or~~
9 ~~an intermediate care facility that is located on the campus of the~~
10 ~~Sierra Valley District Hospital. This subparagraph shall have no~~
11 ~~application to any other district and is intended only to address the~~
12 ~~urgent need to preserve skilled nursing or intermediate care services~~
13 ~~within the rural County of Sierra.~~

14 ~~(C) Subparagraph (B) shall only remain operative until the Sierra~~
15 ~~Valley District Hospital is annexed by the Eastern Plumas Health~~
16 ~~Care District. In no event shall the Eastern Plumas Health Care~~
17 ~~District increase the number of licensed beds at the Sierra Valley~~
18 ~~District Hospital during the operative period of subparagraph (B).~~

19 ~~(10) A transfer of any of the assets of a district to one or more~~
20 ~~nonprofit corporations to operate and maintain the assets shall not~~
21 ~~be required to meet paragraphs (1) to (9), inclusive, of this~~
22 ~~subdivision if all of the following conditions apply at the time of~~
23 ~~the transfer:~~

24 ~~(A) The district has entered into a loan that is insured by the~~
25 ~~State of California under Chapter 1 (commencing with Section~~
26 ~~129000) of Part 6 of Division 107.~~

27 ~~(B) The district is in default of its loan obligations, as determined~~
28 ~~by the Office of Statewide Health Planning and Development.~~

29 ~~(C) The Office of Statewide Health Planning and Development~~
30 ~~and the district, in their best judgment, agree that the transfer of~~
31 ~~some or all of the assets of the district to a nonprofit corporation~~
32 ~~or corporations is necessary to cure the default, and will obviate~~
33 ~~the need for foreclosure. This cure of default provision shall be~~
34 ~~applicable prior to the office foreclosing on district hospital assets.~~
35 ~~After the office has foreclosed on district hospital assets, or~~
36 ~~otherwise taken possession in accordance with law, the office may~~
37 ~~exercise all of its powers to deal with and dispose of hospital~~
38 ~~property.~~

39 ~~(D) The transfer and all arrangements necessary thereto are~~
40 ~~discussed in advance of the transfer in at least one properly noticed~~

1 open and public meeting in compliance with Section 32106 and
2 the Ralph M. Brown Act (Chapter 9 (commencing with Section
3 54950) of Part 1 of Division 2 of Title 5 of the Government Code).
4 The meeting referred to in this paragraph shall be noticed and held
5 within 90 days of notice in writing to the district by the office of
6 an event of default. If the meeting is not held within this 90-day
7 period, the district shall be deemed to have waived this requirement
8 to have a meeting.

9 (11) If a transfer under paragraph (10) is a lease, the lease shall
10 provide that the assets shall revert to the district at the conclusion
11 of the leasehold interest. If the transfer is a sale, the proceeds shall
12 be used first to retire the obligation insured by the office, then to
13 retire any other debts of the district. After providing for debts, any
14 remaining funds shall revert to the district.

15 (12) A health care district shall report to the Attorney General,
16 within 30 days of any transfer of district assets to one or more
17 nonprofit or for-profit corporations, the type of transaction and the
18 entity to whom the assets were transferred or leased.

19 (q) To contract for bond insurance, letters of credit, remarketing
20 services, and other forms of credit enhancement and liquidity
21 support for its bonds, notes, and other indebtedness and to enter
22 into reimbursement agreements, monitoring agreements,
23 remarketing agreements, and similar ancillary contracts in
24 connection therewith.

25 (r) To establish, maintain, operate, participate in, or manage
26 capitated health care service plans, health maintenance
27 organizations, preferred provider organizations, and other managed
28 health care systems and programs properly licensed by the
29 Department of Insurance or the Department of Managed Care, at
30 any location within or without the district for the benefit of
31 residents of communities served by the district. However, that
32 activity shall not be deemed to result in, or constitute, the giving
33 or lending of the district's credit, assets, surpluses, cash, or tangible
34 goods to, or in aid of, any person, association, or corporation in
35 violation of Section 6 of Article XVI of the California Constitution.

36 Nothing in this section shall be construed to authorize activities
37 that corporations and other artificial legal entities are prohibited
38 from conducting by Section 2400 of the Business and Professions
39 Code.

1 Any agreement to provide health care coverage that is a health
2 care service plan, as defined in subdivision (f) of Section 1345;
3 shall be subject to Chapter 2.2 (commencing with Section 1340)
4 of Division 2, unless exempted pursuant to Section 1343 or 1349.2.

5 A district shall not provide health care coverage for any
6 employee of an employer operating within the communities served
7 by the district, unless the Legislature specifically authorizes, or
8 has authorized in this section or elsewhere, the coverage.

9 Nothing in this section shall be construed to authorize any district
10 to contribute its facilities to any joint venture that could result in
11 transfer of the facilities from district ownership.

12 (s) To provide health care coverage to members of the district's
13 medical staff, employees of the medical staff members, and the
14 dependents of both groups, on a self-pay basis.

15 (t) This section shall remain in effect only until January 1, 2011,
16 and as of that date is repealed, unless a later enacted statute, that
17 is enacted before January 1, 2011, deletes or extends that date.

18 SEC. 2. Section 32121 of the Health and Safety Code, as
19 amended by Section 2 of Chapter 20 of the Statutes of 2007, is
20 amended to read:

21 32121. Each local district shall have and may exercise the
22 following powers:

23 (a) To have and use a corporate seal and alter it at its pleasure.

24 (b) To sue and be sued in all courts and places and in all actions
25 and proceedings whatever.

26 (c) To purchase, receive, have, take, hold, lease, use, and enjoy
27 property of every kind and description within and without the
28 limits of the district, and to control, dispose of, convey, and
29 encumber the same and create a leasehold interest in the same for
30 the benefit of the district.

31 (d) To exercise the right of eminent domain for the purpose of
32 acquiring real or personal property of every kind necessary to the
33 exercise of any of the powers of the district.

34 (e) To establish one or more trusts for the benefit of the district,
35 to administer any trust declared or created for the benefit of the
36 district, to designate one or more trustees for trusts created by the
37 district, to receive by gift, devise, or bequest, and hold in trust or
38 otherwise, property, including corporate securities of all kinds,
39 situated in this state or elsewhere, and where not otherwise
40 provided, dispose of the same for the benefit of the district.

1 ~~(f) To employ legal counsel to advise the board of directors in~~
2 ~~all matters pertaining to the business of the district, to perform the~~
3 ~~functions in respect to the legal affairs of the district as the board~~
4 ~~may direct, and to call upon the district attorney of the county in~~
5 ~~which the greater part of the land in the district is situated for legal~~
6 ~~advice and assistance in all matters concerning the district, except~~
7 ~~that if that county has a county counsel, the directors may call~~
8 ~~upon the county counsel for legal advice and assistance.~~

9 ~~(g) To employ any officers and employees, including architects~~
10 ~~and consultants, the board of directors deems necessary to carry~~
11 ~~on properly the business of the district.~~

12 ~~(h) To prescribe the duties and powers of the health care facility~~
13 ~~administrator, secretary, and other officers and employees of any~~
14 ~~health care facilities of the district, to establish offices as may be~~
15 ~~appropriate and to appoint board members or employees to those~~
16 ~~offices, and to determine the number of, and appoint, all officers~~
17 ~~and employees and to fix their compensation. The officers and~~
18 ~~employees shall hold their offices or positions at the pleasure of~~
19 ~~the boards of directors.~~

20 ~~(i) To do any and all things that an individual might do that are~~
21 ~~necessary for, and to the advantage of, a health care facility and a~~
22 ~~nurses' training school, or a child care facility for the benefit of~~
23 ~~employees of the health care facility or residents of the district.~~

24 ~~(j) To establish, maintain, own and operate, or provide assistance~~
25 ~~in the operation of, one or more health facilities or health services,~~
26 ~~including, but not limited to, outpatient programs, services, and~~
27 ~~facilities; retirement programs, services, and facilities; chemical~~
28 ~~dependency programs, services, and facilities; or other health care~~
29 ~~programs, services, and facilities and activities at any location~~
30 ~~within or without the district for the benefit of the district and the~~
31 ~~people served by the district.~~

32 ~~"Health care facilities," as used in this subdivision means those~~
33 ~~facilities defined in subdivision (b) of Section 32000.1 and~~
34 ~~specifically includes freestanding chemical dependency recovery~~
35 ~~units and public hospitals, as defined in paragraph (25) of~~
36 ~~subdivision (a) of Section 14105.98 of the Welfare and Institutions~~
37 ~~Code. "Health facilities," as used in this subdivision, may also~~
38 ~~include those facilities defined in subdivision (d) of Section 15432~~
39 ~~of the Government Code.~~

1 ~~(k) To do any and all other acts and things necessary to carry~~
2 ~~out this division.~~

3 ~~(l) To acquire, maintain, and operate ambulances or ambulance~~
4 ~~services within and without the district.~~

5 ~~(m) To establish, maintain, and operate, or provide assistance~~
6 ~~in the operation of, free clinics, diagnostic and testing centers,~~
7 ~~health education programs, wellness and prevention programs,~~
8 ~~rehabilitation, aftercare, and any other health care services provider,~~
9 ~~groups, and organizations that are necessary for the maintenance~~
10 ~~of good physical and mental health in the communities served by~~
11 ~~the district.~~

12 ~~(n) To establish and operate in cooperation with its medical~~
13 ~~staff a coinsurance plan between the hospital district and the~~
14 ~~members of its attending medical staff.~~

15 ~~(o) To establish, maintain, and carry on its activities through~~
16 ~~one or more corporations, joint ventures, or partnerships for the~~
17 ~~benefit of the health care district.~~

18 ~~(p) (1) To transfer, at fair market value, any part of its assets to~~
19 ~~one or more nonprofit corporations to operate and maintain the~~
20 ~~assets. A transfer pursuant to this paragraph shall be deemed to be~~
21 ~~at fair market value if an independent consultant, with expertise~~
22 ~~in methods of appraisal and valuation and in accordance with~~
23 ~~applicable governmental and industry standards for appraisal and~~
24 ~~valuation, determines that fair and reasonable consideration is to~~
25 ~~be received by the district for the transferred district assets. Before~~
26 ~~the district transfers, pursuant to this paragraph, 50 percent or more~~
27 ~~of the district's assets to one or more nonprofit corporations, in~~
28 ~~sum or by increment, the elected board shall, by resolution, submit~~
29 ~~to the voters of the district a measure proposing the transfer. The~~
30 ~~measure shall be placed on the ballot of a special election held~~
31 ~~upon the request of the district or the ballot of the next regularly~~
32 ~~scheduled election occurring at least 88 days after the resolution~~
33 ~~of the board. If a majority of the voters voting on the measure vote~~
34 ~~in its favor, the transfer shall be approved. The campaign disclosure~~
35 ~~requirements applicable to local measures provided under Chapter~~
36 ~~4 (commencing with Section 84100) of Title 9 of the Government~~
37 ~~Code shall apply to this election.~~

38 ~~(2) To transfer, for the benefit of the communities served by~~
39 ~~the district, in the absence of adequate consideration, any part of~~
40 ~~the assets of the district, including, without limitation, real property,~~

1 equipment, and other fixed assets, current assets, and cash, relating
2 to the operation of the district's health care facilities to one or more
3 nonprofit corporations to operate and maintain the assets.

4 (A) A transfer of 50 percent or more of the district's assets, in
5 sum or by increment, pursuant to this paragraph shall be deemed
6 to be for the benefit of the communities served by the district only
7 if all of the following occur:

8 (i) The transfer agreement and all arrangements necessary
9 thereto are fully discussed in advance of the district board decision
10 to transfer the assets of the district in at least five properly noticed
11 open and public meetings in compliance with Section 32106 and
12 the Ralph M. Brown Act (Chapter 9 (commencing with Section
13 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

14 (ii) The transfer agreement provides that the hospital district
15 shall approve all initial board members of the nonprofit corporation
16 and any subsequent board members as may be specified in the
17 transfer agreement.

18 (iii) The transfer agreement provides that all assets transferred
19 to the nonprofit corporation, and all assets accumulated by the
20 corporation during the term of the transfer agreement arising out
21 of, or from, the operation of the transferred assets, are to be
22 transferred back to the district upon termination of the transfer
23 agreement, including any extension of the transfer agreement.

24 (iv) The transfer agreement commits the nonprofit corporation
25 to operate and maintain the district's health care facilities and its
26 assets for the benefit of the communities served by the district.

27 (v) The transfer agreement requires that any funds received
28 from the district at the outset of the agreement or any time
29 thereafter during the term of the agreement be used only to reduce
30 district indebtedness, to acquire needed equipment for the district
31 health care facilities, to operate, maintain, and make needed capital
32 improvements to the district's health care facilities, to provide
33 supplemental health care services or facilities for the communities
34 served by the district, or to conduct other activities that would
35 further a valid public purpose if undertaken directly by the district.

36 (B) A transfer of 10 percent or more but less than 50 percent of
37 the district's assets, in sum or by increment, pursuant to this
38 paragraph shall be deemed to be for the benefit of the communities
39 served by the district only if both of the following occur:

~~(i) The transfer agreement and all arrangements necessary thereto are fully discussed in advance of the district board decision to transfer the assets of the district in at least two properly noticed open and public meetings in compliance with Section 32106 and the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).~~

~~(ii) The transfer agreement meets all of the requirements of clauses (iii) to (v), inclusive, of subparagraph (A).~~

~~(C) Before the district transfers, pursuant to this paragraph, 50 percent or more of the district's assets to one or more nonprofit corporations, in sum or by increment, the elected board shall, by resolution, submit to the voters of the district a measure proposing the transfer. The measure shall be placed on the ballot of a special election held upon the request of the district or the ballot of the next regularly scheduled election occurring at least 88 days after the resolution of the board. If a majority of the voters voting on the measure vote in its favor, the transfer shall be approved. The campaign disclosure requirements applicable to local measures provided under Chapter 4 (commencing with Section 84100) of Title 9 of the Government Code shall apply to this election.~~

~~(D) Notwithstanding the other provisions of this paragraph, a hospital district shall not transfer any portion of its assets to a private nonprofit organization that is owned or controlled by a religious creed, church, or sectarian denomination in the absence of adequate consideration.~~

~~(3) If the district board has previously transferred less than 50 percent of the district's assets pursuant to this subdivision, before any additional assets are transferred, the board shall hold a public hearing and shall make a public determination that the additional assets to be transferred will not, in combination with any assets previously transferred, equal 50 percent or more of the total assets of the district.~~

~~(4) The amendments to this subdivision made during the 1991-92 Regular Session, and the amendments made to this subdivision and to Section 32126 made during the 1993-94 Regular Session, shall only apply to transfers made on or after the effective dates of the acts amending this subdivision. The amendments to this subdivision made during those sessions shall not apply to either of the following:~~

1 (A) A district that has discussed and adopted a board resolution
2 prior to September 1, 1992, that authorizes the development of a
3 business plan for an integrated delivery system.

4 (B) A lease agreement, transfer agreement, or both between a
5 district and a nonprofit corporation that were in full force and effect
6 as of September 1, 1992, for as long as that lease agreement,
7 transfer agreement, or both remain in full force and effect.

8 (5) Notwithstanding paragraph (4), if substantial amendments
9 are proposed to be made to a transfer agreement described in
10 subparagraph (A) or (B) of paragraph (4), the amendments shall
11 be fully discussed in advance of the district board's decision to
12 adopt the amendments in at least two properly noticed open and
13 public meetings in compliance with Section 32106 and the Ralph
14 M. Brown Act (Chapter 9 (commencing with Section 54950) of
15 Part 1 of Division 2 of Title 5 of the Government Code).

16 (6) Notwithstanding paragraphs (4) and (5), a transfer agreement
17 described in subparagraph (A) or (B) of paragraph (4) that provided
18 for the transfer of less than 50 percent of a district's assets shall
19 be subject to the requirements of this subdivision when subsequent
20 amendments to that transfer agreement would result in the transfer,
21 in sum or by increment, of 50 percent or more of a district's assets
22 to the nonprofit corporation.

23 (7) For purposes of this subdivision, a "transfer" means the
24 transfer of ownership of the assets of a district. A lease of the real
25 property or the tangible personal property of a district shall not be
26 subject to this subdivision except as specified in Section 32121.4
27 and as required under Section 32126.

28 (8) Districts that request a special election pursuant to paragraph
29 (1) or (2) shall reimburse counties for the costs of that special
30 election as prescribed pursuant to Section 10520 of the Elections
31 Code.

32 (9) (A) Nothing in this section, including subdivision (j), shall
33 be construed to permit a local district to obtain or be issued a single
34 consolidated license to operate a separate physical plant as a skilled
35 nursing facility or an intermediate care facility that is not located
36 within the boundaries of the district.

37 (B) Notwithstanding subparagraph (A), Eastern Plumas Health
38 Care District may obtain and be issued a single consolidated license
39 to operate a separate physical plant as a skilled nursing facility or
40 an intermediate care facility that is located on the campus of the

~~Sierra Valley District Hospital. This subparagraph shall have no application to any other district and is intended only to address the urgent need to preserve skilled nursing or intermediate care services within the rural County of Sierra.~~

~~(C) Subparagraph (B) shall only remain operative until the Sierra Valley District Hospital is annexed by the Eastern Plumas Health Care District. In no event shall the Eastern Plumas Health Care District increase the number of licensed beds at the Sierra Valley District Hospital during the operative period of subparagraph (B).~~

~~(10) A transfer of any of the assets of a district to one or more nonprofit corporations to operate and maintain the assets shall not be required to meet paragraphs (1) to (9), inclusive, of this subdivision if all of the following conditions apply at the time of the transfer:~~

~~(A) The district has entered into a loan that is insured by the State of California under Chapter 1 (commencing with Section 129000) of Part 6 of Division 107.~~

~~(B) The district is in default of its loan obligations, as determined by the Office of Statewide Health Planning and Development.~~

~~(C) The Office of Statewide Health Planning and Development and the district, in their best judgment, agree that the transfer of some or all of the assets of the district to a nonprofit corporation or corporations is necessary to cure the default, and will obviate the need for foreclosure. This cure of default provision shall be applicable prior to the office foreclosing on district hospital assets. After the office has foreclosed on district hospital assets, or otherwise taken possession in accordance with law, the office may exercise all of its powers to deal with and dispose of hospital property.~~

~~(D) The transfer and all arrangements necessary thereto are discussed in advance of the transfer in at least one properly noticed open and public meeting in compliance with Section 32106 and the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code). The meeting referred to in this paragraph shall be noticed and held within 90 days of notice in writing to the district by the office of an event of default. If the meeting is not held within this 90-day period, the district shall be deemed to have waived this requirement to have a meeting.~~

1 ~~(11) If a transfer under paragraph (10) is a lease, the lease shall~~
2 ~~provide that the assets shall revert to the district at the conclusion~~
3 ~~of the leasehold interest. If the transfer is a sale, the proceeds shall~~
4 ~~be used first to retire the obligation insured by the office, then to~~
5 ~~retire any other debts of the district. After providing for debts, any~~
6 ~~remaining funds shall revert to the district.~~

7 ~~(12) A health care district shall report to the Attorney General,~~
8 ~~within 30 days of any transfer of district assets to one or more~~
9 ~~nonprofit or for-profit corporations, the type of transaction and the~~
10 ~~entity to whom the assets were transferred or leased.~~

11 ~~(q) To contract for bond insurance, letters of credit, remarketing~~
12 ~~services, and other forms of credit enhancement and liquidity~~
13 ~~support for its bonds, notes, and other indebtedness and to enter~~
14 ~~into reimbursement agreements, monitoring agreements,~~
15 ~~remarketing agreements, and similar ancillary contracts in~~
16 ~~connection therewith.~~

17 ~~(r) To establish, maintain, operate, participate in, or manage~~
18 ~~capitated health care service plans, health maintenance~~
19 ~~organizations, preferred provider organizations, and other managed~~
20 ~~health care systems and programs properly licensed by the~~
21 ~~Department of Insurance or the Department of Managed Care, at~~
22 ~~any location within or without the district for the benefit of~~
23 ~~residents of communities served by the district. However, that~~
24 ~~activity shall not be deemed to result in, or constitute, the giving~~
25 ~~or lending of the district's credit, assets, surpluses, cash, or tangible~~
26 ~~goods to, or in aid of, any person, association, or corporation in~~
27 ~~violation of Section 6 of Article XVI of the California Constitution.~~

28 ~~Nothing in this section shall be construed to authorize activities~~
29 ~~that corporations and other artificial legal entities are prohibited~~
30 ~~from conducting by Section 2400 of the Business and Professions~~
31 ~~Code.~~

32 ~~Any agreement to provide health care coverage that is a health~~
33 ~~care service plan, as defined in subdivision (f) of Section 1345,~~
34 ~~shall be subject to Chapter 2.2 (commencing with Section 1340)~~
35 ~~of Division 2, unless exempted pursuant to Section 1343 or 1349.2.~~

36 ~~A district shall not provide health care coverage for any~~
37 ~~employee of an employer operating within the communities served~~
38 ~~by the district, unless the Legislature specifically authorizes, or~~
39 ~~has authorized in this section or elsewhere, the coverage.~~

- 1 ~~Nothing in this section shall be construed to authorize any district~~
2 ~~to contribute its facilities to any joint venture that could result in~~
3 ~~transfer of the facilities from district ownership.~~
4 ~~(s) To provide health care coverage to members of the district's~~
5 ~~medical staff, employees of the medical staff members, and the~~
6 ~~dependents of both groups, on a self-pay basis.~~
7 ~~(t) This section shall become operative on January 1, 2011.~~